



Memorandum

U.S. Department
of Transportation
**Federal Highway
Administration**

Subject: Alternatives Selection Process for
Projects Involving Section 4(f) of
the DOT Act

Date:

15 NOV 1989

From: Director, Office of Environmental Policy
Washington, D.C. 20590

Reply to
Attn. of:

HEV-11

To: Regional Federal Highway Administrators
Federal Lands Highway Program Administrator

On several important projects over the past few months, the alternatives selection process for projects in several States has been a cause of great concern. In addition, there appears to be widespread misunderstanding on several court decisions on projects involving Section 4(f) of the DOT Act.

The attached paper describes the FHWA policy on the alternatives selection process to be used on projects involving Section 4(f). Please provide copies of this policy to your Regional Counsel, to your Planning and Program Development Director, to your Division Offices, and to the State highway agencies in your Region. This policy will be incorporated into the next edition of the Environmental Guidebook.

Ali F. Sevin

Attachment

Alternatives Selection Process for Projects Involving Section 4(f) of the DOT Act

The first test under Section 4(f) is to determine which alternatives are feasible and prudent. An alternative may be rejected as not being feasible and prudent for any of the following reasons: (1) not meeting the project purpose and need, (2) excessive cost of construction, (3) severe operational or safety problems, (4) unacceptable adverse social, economic or environmental impacts, (5) serious community disruption, or (6) an accumulation of a lesser magnitude of the foregoing types of factors. Harm to a Section 4(f) resource should not be included in those factors which are considered in determining whether an alternative is feasible and prudent.

Where sufficient analysis has been completed to demonstrate that a particular alternative is not feasible and prudent, no additional analysis or consideration of that alternative is required.

After the alternatives which are not feasible and prudent are eliminated, a determination must be made on whether one or more of the remaining alternatives avoid the use of land from Section 4(f) resources. If such avoidance alternatives exist, one of them must be selected. On the other hand, if all of the remaining feasible and prudent alternatives use land from Section 4(f) resources, then a (least harm) analysis must be performed to determine which alternative does least overall harm to the Section 4(f) resources. In performing this analysis the net harm (after mitigation) to the resource is the governing factor. The net harm should be determined in consultation with the agency (the SHPO in the case of historic sites) having jurisdiction over or ownership of the resource. The feasible and prudent alternative which does the least harm must be selected. Where there is more than one least harm alternative (i.e., there is little or no difference in the overall harm to the Section 4(f) resources), any of the least harm alternatives may be selected.

The following examples illustrate the alternative selection process described above. On project 1, Alternatives C and D are determined not to be feasible and prudent. No further attention need be given to these alternatives. While these alternatives may or may not use land from a Section 4(f) resource, it is immaterial, and no further analysis is warranted. Since Alternatives A and B are feasible and prudent and because "B" does not use land from a Section 4(f) resource, alternative B must be selected. It is not necessary to determine the relative harm that alternative "A" has on the Section 4(f) resources, because "B" is a feasible and prudent avoidance alternative.

On project 2, Alternatives C and D are determined not to be feasible and prudent. No further consideration need be given these alternatives. Of the remaining feasible and prudent alternatives, both "A" and "B" use land from Section 4(f) resources. The FHWA can approve only the feasible and prudent

alternative which does the least overall harm to the Section 4(f) resources. For project 2, all feasible and prudent alternatives use land from a Section 4(f) resource, so "B" must be selected since it does less harm to the Section 4(f) resources.

<u>Project</u>	<u>Alternative</u>	<u>Feasible and Prudent</u>	<u>Uses Sec. 4(f) Land</u>	<u>Relative Net Harm to Sec. 4(f) Land After Mitigation</u>
1	A	Yes	Yes	N.A.**
	B	Yes	No	None
	C	No	Yes (N.A.)*	N.A.*
	D	No	No (N.A.)*	N.A.*
2	A	Yes	Yes	Greater
	B	Yes	Yes	Lesser
	C	No	Yes (N.A.)*	N.A.*
	D	No	No (N.A.)*	N.A.*

*Since this alternative is not feasible and prudent, it should be eliminated from further consideration. Whether Section 4(f) land is used and the relative harm to Section 4(f) protected properties are no longer relevant factors.

**In Project 1 there is a feasible and prudent alternative which does not use Section 4(f) protected property (Alt. B). Any alternative which uses Section 4(f) protected property must be eliminated from further consideration.